

**REMARKS**

The additional comments provided in the Advisory Action mailed June 16, 2005 have been considered. The claims have been amended to clarify aspects of the invention and to preclude their interpretation as set forth in the Advisory Action. A Request for Continued Examination is filed concurrently herewith.

The amendments to each of the independent claims, i.e. Claims 1, 16, and 26, clarify the relationship between the business representatives and the competitor representatives, and clarify how competition between the business and competitor(s) is quantified. In particular, these claims now recite that a plurality of business representatives are comprised by the business and situated at different geographical locations to provide sales of the business's products. Similarly, a plurality of competitor representatives are comprised by the competitor(s) and situated at different geographical locations to provide sales of competitor products. Support for such limitations is provided in the application at, *e.g.*, p. 4, ll. 13 – 32. The competitor(s) compete for sales of products with the business. The competition between them is thus now expressed in the claim as competition to the business for sales of the business's products, provided by the competitor sales of the competitor products. This competition has a level that is quantified in terms of a distance measure between the business and competitor representatives. Support for such limitations is provided in the application at, *e.g.*, p. 7, ll. 21 – 33; p. 12, ll. 13 – 26.

With this clarification, it is apparent that the cited art does not teach or suggest the combination of limitations recited. In particular, the claims as now pending make clear that the claimed invention is concerned with competition between a business and its competitors for the sale of products in geographical areas where representatives of the business and competitors are distributed. Both the business and its competitors provide sales of products, and the claimed invention permits the business to quantify how much competition is being provided by its competitors. No such capability is taught or suggested by the cited art.

For example, Gailey broadly describes a system and method for tracking purchases in a location-based services system (Gailey, ¶2). While the Office has previously relied on ¶¶43 and 44 of Gailey as disclosing the limitation of Claim 1 of “determining a location for each of the plurality of business representatives,” it is noted that those paragraphs describe a remote terminal 40 that has an assigned geographic indicator, or has the capability of designating a different geographic indicator. This remote terminal 40 operates as a subscriber terminal (*see* Gailey, ¶42, describing the connection of remote terminal 40 to a subscriber portal web server 44). It is not a “business representative” having the relationship to a business required by the amended claim limitations. This is similarly the case with the “competitor representatives” and the claim requirements of a specific relationship to the business.

Herz broadly describes a “Location Enhanced Information Delivery System” that optimizes a match between advertiser and other information purveyors with recipients, sometimes using location information for the recipients (Herz, Col. 1, l. 48 – Col. 2, l. 25). The Office has previously relied on Col. 25, ll. 26 – 67 and Col. 14, ll. 1 – 12 of Herz as disclosing the claim limitation of “from location information in the at least one populated database, calculating a probability that quantifies a level of competition to the business provided by the one or more competitors in terms of a distance measure between the business and competitor representatives.” But it is noted that this disclosure is concerned not with quantifying a level of competition, which the claims now require be for sales of the business’s products and provided by the one or more competitors providing sales of the competitor products.

As the Advisory Action asserts, Herz “does not distinguish data stored in a database by such designations [business versus competitor].” Indeed, this is because the cited portion of Herz is concerned with an entirely different issue, namely the “efficiency of automatic determination of customized prices and promotions in optimizing retailer profits” (Herz, Col. 25, ll. 26 – 27). While improving this efficiency may use proximity information of the customer to retailer locations (*id.*, Col. 25, ll. 46 – 55), Herz is unconcerned with distance measures between the business and competitor representatives, the measure that is cited in the claims. This is also true of the quantification of advertising capacity described in Herz at Col. 5, ll. 15 – 34, which

also does not determine a probability in terms of a distance measure between business and competitor representatives.

For instance, suppose Business B is in competition with Competitors C and C' for the sale of widgets. Each of Business B and Competitors C and C' have representatives distributed about a State. Embodiments of the invention permit Business B to determine quantitatively whether Competitor C or C' provides more competition and to correlate that information with demographic data. The process described in Herz permits no such comparison.


Examination of the claims as amended is accordingly requested.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

  
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